



~~July 17, 2007 CPC~~
~~August 21, 2007 CPC~~
October 16, 2007 CPC

STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

07SN0356

Goode Land Company

Midlothian Magisterial District
13217 Midlothian Turnpike

REQUESTS:

- I. Rezoning from Residential (R-7) and Community Business (C-3) to Community Business (C-3).
- II. Conditional Use Planned Development to permit exceptions to Ordinance requirements.

PROPOSED LAND USE:

Commercial uses are planned. With approval of this request, uses permitted by right or with restrictions in the Neighborhood Business (C-2) District would be permitted, except as limited by proffered conditions, as well as several Community Business (C-3) uses (Proffered Condition 10). Exceptions are requested to reduce setbacks for drives from Midlothian Turnpike.

(NOTE: IN ORDER FOR THE COMMISSION TO CONSIDER THIS REQUEST AT THEIR OCTOBER 16, 2007, PUBLIC HEARING, A \$130.00 DEFERRAL FEE MUST BE PAID.)

RECOMMENDATION

Request I: Recommend approval of the rezoning subject to the applicant addressing concerns relative to architectural treatment, fencing, and drive-in windows. This recommendation is made for the following reasons:

- A. With the use limitations, the proposed zoning and land uses conform to the Midlothian Area Community Plan which suggests the property is appropriate for village shopping district uses.
- B. Proffered Condition 2 relative to architectural treatment should be modified to clarify under what criteria an alternative design would be approved.
- C. Proffered Condition 3 relative to fencing along Midlothian Turnpike should be revised to specify the exact treatment of the proposed fence.
- D. Limitations on restaurants with drive through windows is difficult, if not impossible, to enforce.

Request II: Recommend denial of the Conditional Use Planned Development for the following reasons:

- A. The setback exceptions along Midlothian Turnpike will interrupt the established development pattern and visual transition from the typical suburban automobile-oriented development of the Village Fringe to Core of Midlothian, undermining the integrity of the Midlothian Area Community Plan in promoting a pedestrian scale and focus for the Village Core.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER(S) MAY PROFFER CONDITIONS.)

PROFFERED CONDITIONS

The property owner and applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the property under consideration will be developed according to the following proffers if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. Master Plan. The Textual Statement dated July 30, 2007 shall be considered the Master Plan. (P)
2. Architecture. The architectural treatment of buildings constructed on the Property shall be generally consistent with Colonial Revival Architecture, unless otherwise requested by the developer and specifically approved by the Planning Commission at time of site plan approval. (P)
3. Fence. A decorative metal fence shall be constructed along Midlothian Turnpike exclusive of the entranceway. The fence shall have brick piers with concrete caps. The

design of such fence shall be substantially similar to that at 1301 Midlothian Turnpike (First Citizens Bank). (P)

4. Sidewalk. In conjunction with the initial development of the Property, the developer shall construct a sidewalk to VDOT standards along Midlothian Turnpike (Route 60) for the entire property frontage, and dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for this improvement. The exact design and location of this improvement shall be approved by the Transportation Department. There shall be a minimum five (5) foot wide grassy strip from the back of curb to the sidewalk. A sidewalk shall be constructed to the northern limits of Tax ID 731-706-3947 to facilitate pedestrian connection between the proposed developments. (T & P)
5. Access. Direct vehicular access from the Property to Midlothian Turnpike (Route 60) shall be limited to one (1) entrance/exit, generally located towards the eastern property line. The exact location of this access shall be approved by the Transportation Department. Prior to any site plan approval, an access easement, acceptable to the Transportation Department, shall be recorded across the Property to provide shared use of this access with adjacent property to the east, west and south. (T)
6. Notification. The developer shall be responsible for notifying by registered, certified or first class mail, the last known representative on file with the Planning Department of the Village of Midlothian Volunteer Coalition of any site plan. Such notification shall occur as soon as practical, but in no event less than twenty-one (21) days prior to approval or disapproval of the plan. The developer shall provide a copy of the notification letter(s) to the Planning Department. (P)
7. Street Lights. Provided the monthly electric service is paid through the street light program, the developer shall be responsible for installation of decorative street lighting similar in design to the light fixture specified in The Midlothian Village Technical Manual which shall be provided along all public roads adjacent to the site. Spacing shall be approximately eighty (80) feet on center. All on-site freestanding street light fixtures shall be compatible with the aforementioned street lights. (P)
8. Utilities. The public wastewater system shall be utilized. (U)
9. Timbering. Except for the timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
10. Uses.
 - a. Uses shall not be open to the public between the hours of midnight and 6:00 a.m.
 - b. Uses shall be limited to those uses permitted by right or with restrictions in the Neighborhood Business (C-2) District plus the following uses:

- i. cocktail lounges provided that they are accessory to a restaurant;
 - ii. liquor stores;
 - iii. restaurants, to include carry out and fast food;
 - iv. electrical, plumbing HVAC sales and display rooms; and
 - v. microbreweries provided that the manufacturing of alcoholic beverages shall be for the sole purpose of on-site consumption and such on-site consumption shall only occur if accessory to a restaurant use.
 - c. The following uses shall be prohibited:
 - i. gasoline sales;
 - ii. coin-operated dry cleaning, laundry or laundromats;
 - iii. rental of health and party equipment; and small home hardware, tools and equipment;
 - iv. cigarette outlets;
 - v. electrical, plumbing and HVAC service;
 - vi. funeral homes or mortuaries; and
 - vii. motor vehicle accessory stores. (P)
11. Drive-Through Windows. There shall be no drive-through window on the facade of any building which drive-through would be parallel and adjacent to Midlothian Turnpike. Any drive-through window located on the side of a building, and located in front of the front plane of any building adjacent thereto on adjacent properties, shall be enclosed. Fast food restaurants shall not have drive through windows, excluding, however, restaurants with drive through windows whose primary business (a minimum of fifty (50) percent of its gross receipts) is the sale of specialty coffee beverages, as well as ground and unground coffee beans. (P)
12. Parking. There shall be no parking between Midlothian Turnpike and the facade of any building adjacent to Midlothian Turnpike. (P)

GENERAL INFORMATION

Location:

South line of Midlothian Turnpike, west of North Woolridge Road and better known as 13217 Midlothian Turnpike. Tax ID 731-707-2423.

Existing Zoning:

R-7 and C-3

Size:

2.7 acres

Existing Land Use:

Commercial

Adjacent Zoning and Land Use:

North - C-3 with Conditional Use Planned Development; Commercial

South - R-TH with Conditional Use Planned Development; Vacant

East - C-3 and R-7; Commercial

West - C-3 with Conditional Use Planned Development; Office

UTILITIES

Public Water System:

There is an existing thirty (30) inch water line extending along the south side of Midlothian Turnpike within an easement across this property. Use of the public water system is required by County Code.

Public Wastewater System:

There is an existing eight (8) inch wastewater collector line that terminates approximately 290 feet west of this site. Use of the public wastewater system is intended. (Proffered Condition 8)

ENVIRONMENTAL

Drainage and Erosion:

The subject property drains to the rear and eventually to a pond in the Grove Development. There are currently no on- or off-site drainage or erosion problems and none are anticipated after development.

The majority of the property is wooded and, as such, should not be timbered without obtaining a land disturbance permit from the Department of Environmental Engineering. This will insure that adequate erosion control measures are in place prior to timbering. (Proffered Condition 9)

PUBLIC FACILITIES

Fire Service:

The Midlothian Fire Station, Company 5, and Forest View Volunteer Rescue Squad currently provide fire protection and emergency medical service. This request will have a minimal impact on fire and EMS.

Transportation:

The subject property is approximately 2.7 acres located southeast of the Midlothian Turnpike (Route 60) and Mount Pisgah Drive intersection. The applicant is requesting a rezoning from Residential (R-7, approximately 2.1 acres) and Community Business (C-3, approximately 0.6 acres) to Community Business (C-3).

This request will not limit development to a specific land use; therefore it is difficult to anticipate traffic generation. Based on trip rates for a shopping center, development could generate approximately 2,650 average daily trips (ADT). Traffic generated by this development will be distributed along Route 60. Route 60 had a 2006 traffic count of 32,907 ADT between Winterfield Road and Old Buckingham Road. Based on the current volume of traffic it carries during peak hours, Route 60 in this location is a four-lane highway that accommodates (Level of Service D) the volume of traffic it currently carries. No public road improvements in this part of the county are currently included in the Six-Year Improvement Plan.

Development must adhere to the Development Standards Manual in the Zoning Ordinance relative to access and internal circulation (Division 5). The Thoroughfare Plan identifies Route 60 as a major arterial. Access to major arterials, such as Route 60, should be controlled. The applicant has proffered to limit vehicular access to one (1) entrance/exit point along Route 60 and provide an access easement to ensure shared access with the property to the east. (Proffered Condition 5)

The traffic impact of this development must be addressed; however, widening Route 60 in this area conflicts with the spirit and intent of the Midlothian Area Community Plan. The Midlothian Area Community Plan recommends enhancement of Midlothian by maintaining its "Village" characteristics and specifically states: "Potential for widening Route 60 is limited between Old Buckingham and Winterfield Roads." The applicant has proffered to construct a sidewalk to VDOT standards along Route 60 and dedicate any additional right-of-way required for this improvement. (Proffered Condition 4)

VDOT's "Chapter 527" regulations, dealing with development Traffic Impact Study requirements, have recently been enacted. Staff has been meeting with VDOT to attempt to understand the process and the impact of the regulations. At this time, it is uncertain what impact VDOT's regulations will have on the development process or upon zonings approved by the county.

At time of site plan review, specific recommendations will be provided regarding access and internal site circulation.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Midlothian Area Community Plan which suggests the property is appropriate for Village Shopping District uses. The Plan indicates that this area is appropriate for retail/service activities to include neighborhood shopping centers, office/service establishments and public facilities.

Area Development Trends:

The area is characterized by a mix of commercial, office and public/semi-public (school) uses bordered to the south by proposed high density residential uses along North Woolridge Road.

Site Design:

The property is subject to the design standards for the Midlothian Village, which were adopted concurrent with the Midlothian Area Community Plan as part of the Zoning Ordinance. The Village is divided into areas commonly known as the “Core” and the “Fringe”, with associated standards addressing setbacks, landscaping and other design features. These standards were established to provide transition from the typical suburban automobile-oriented development into the core of the Midlothian Village. The property lies within the Midlothian Village Core. The Core standards, which reflect a more neo-traditional approach to design, would permit buildings closer to the rights of way, with parking generally located behind the front lines of the buildings, creating a more pedestrian-friendly environment.

Currently, within the Village Core, the minimum setback for drives from major arterials is twenty (20) feet behind the front line of the building, which may be reduced to the front line of the building with the least setback with the provision of additional landscaping. The current request would permit setbacks for drives along Midlothian Turnpike to be reduced to five (5) feet (Textual Statement). The result is an interruption in the visual transition not only moving from Fringe to Core, but also from one side of the arterials to the other. This confusion in scale undermines the integrity of the Plan in promoting a pedestrian focus for the Village Core and sets a precedent for other businesses to seek similar exceptions.

Proffered Condition 11 would preclude drives located closer than the front façade of the building to Midlothian Turnpike from serving drive-in windows. This proffer also attempts to limit the type of fast food restaurant permitted to have a drive-in window as one whose primary business is coffee and coffee beverage sales. As proffered, staff would be responsible for examining the gross receipts of the business to insure compliance, which

presents an enforcement issue. As such, staff recommends that this proffered limitation not be accepted.

Parking:

Currently, within the Village Core, the minimum setback for parking from major arterials is twenty (20) feet behind the front line of the building, which may be reduced to the front line of the building with the least setback with the provision of additional landscaping. Proffered Condition 12 precludes parking between Midlothian Turnpike and the front façade of any building, whether or not its location is closest to Midlothian Turnpike.

Uses and Hours of Operation:

Uses are limited to those permitted by right or with restrictions in the Neighborhood Business (C-2) District, except as limited by Proffered Condition 10.c. Several uses permitted in the Community Business (C-3) District are also permitted (Proffered Condition 10.b). These uses are generally consistent with those permitted on area properties along the south line of Midlothian Turnpike, west of North Woolridge Road and east of the subject property, all of which are part of the village shopping district.

Hours of operation for all uses are limited. (Proffered Condition 10.a)

Sidewalks; Fencing; Lighting; and Architecture:

In addition to the Midlothian Village Core Standards, the applicant has proffered conditions relative to the installation of sidewalks and a decorative fence along Midlothian Turnpike, sidewalks to the planned townhouse development to the south, decorative street lights and architectural treatment (Proffered Conditions 2, 3, 4 and 7). It should be noted that the Commission's review of architectural treatment is limited to conditions of zoning and Ordinance requirements. Proffered Condition 2 implies that the Commission can approve alternative architectural designs. The condition should be clarified to specify under what circumstances alternative designs may be considered.

Proffered Condition 3 addresses fencing along Midlothian Turnpike. Reference is made to the design of the fence at First Citizens Bank which is not yet constructed. The proffer should be amended to reference the exact fence design.

Notification of Site Plan Approval:

Proffered Condition 6 will require that the developer notify the last known representative of the Village of Midlothian Volunteer Coalition on file with the Planning Department of site plan submission. It is imperative that the Coalition keep the Planning Department current with the name and address of the representative to be notified.

CONCLUSION

As proffered, the proposed zoning and land uses conform to the Midlothian Area Community Plan which suggests the property is appropriate for village shopping district uses. In addition, the proposed zoning and land uses are representative of, and compatible with, existing and anticipated area development. Given these considerations, approval of Request I (rezoning) is recommended subject to addressing concerns outlined herein relative to architectural treatment, fencing and drive-in windows.

The proposed setback exceptions for drives along major arterials result in an interruption in the established development pattern and visual transition from the typical suburban automobile-oriented development of the Village Fringe to Core of Midlothian. This confusion in scale undermines the integrity of the Plan in promoting a pedestrian scale and focus for the Village Core. Given these considerations, denial of Request II (Conditional Use Planned Development) is recommended.

CASE HISTORY

Planning Commission Meeting (7/17/07):

At the request of the applicant, the Commission deferred this case to August 21, 2007.

Staff (7/18/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than July 23, 2007, for consideration at the Commission's August 21, 2007, public hearing. Also, the applicant was advised that a \$230.00 deferral fee must be paid prior to the Commission's public hearing.

Applicant (8/2/07):

Revised proffered conditions and Textual Statement were submitted.

Staff (8/8/07):

To date, the deferral fee has not been paid.

Applicant (8/17/07):

The deferral fee was paid.

Planning Commission Meeting (8/21/07):

At the request of the applicant, the Commission deferred this case to October 16, 2007.

Staff (8/22/07):

The applicant was advised in writing that any significant, new or revised information should be submitted no later than August 27, 2007, for consideration at the Commission's October 16, 2007, public hearing. Also, the applicant was advised that a \$130.00 deferral fee must be paid prior to the Commission's public hearing.

Staff (9/25/07):

To date, no new information has been submitted, nor has the deferral fee been paid.

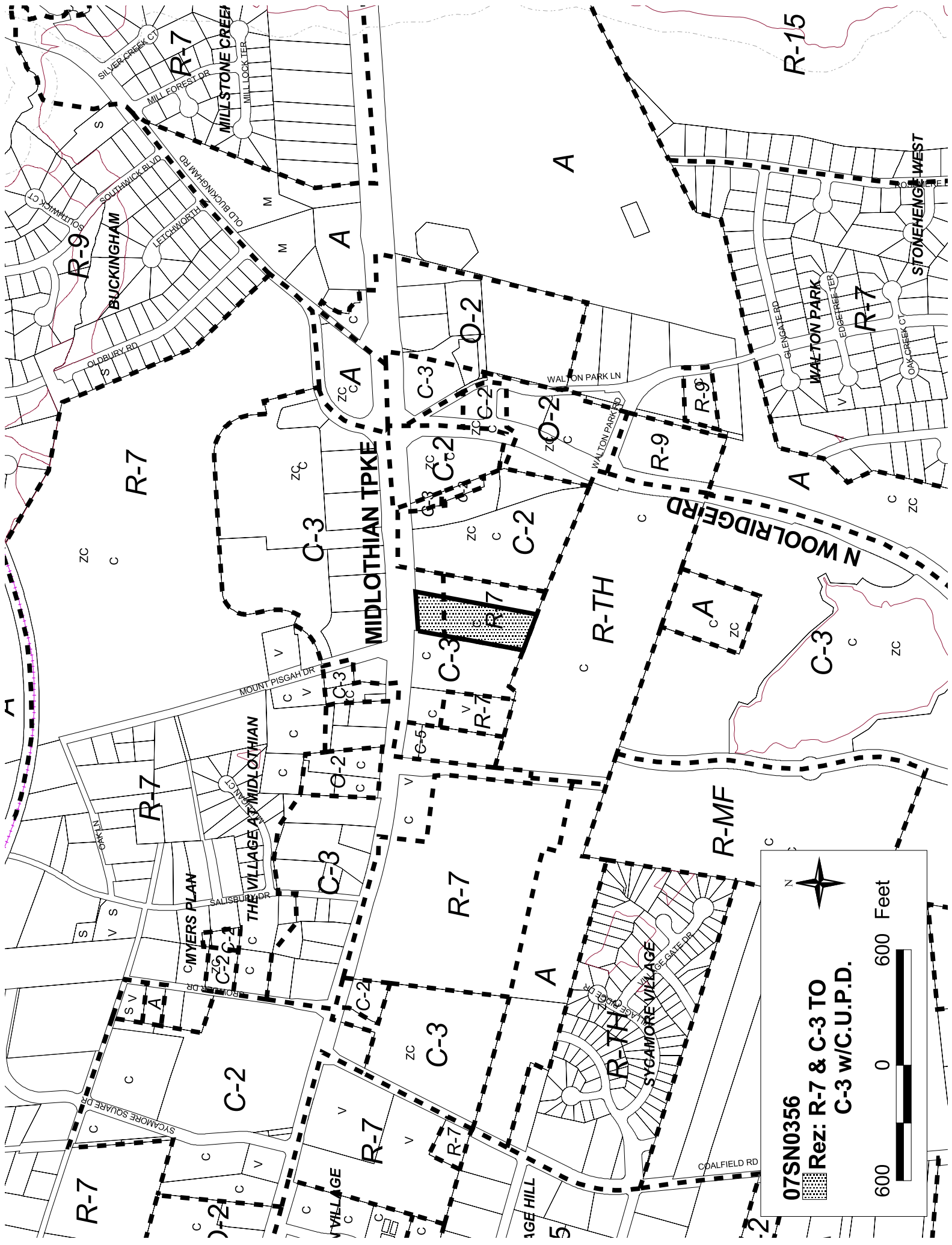
FIRST AMENDED AND RESTATED TEXTUAL STATEMENT

July 30, 2007

This is a request to rezone approximately 2.7 acres of the Property under consideration to C-3 with a Conditional Use Planned Development (CUPD) that will permit retail development with the following exception:

1. The minimum setback along Midlothian Turnpike for any driveway shall be five (5) feet.

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